



52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

614.464.6400 | vorys.com

Founded 1909

Gary J. Saalman
Direct Dial (614) 464-5678
Direct Fax (614) 464-5678
Email gjsaalman@vorys.com

June 30, 2025

BY ECF

Honorable Sanket J. Bulsara
United States District Court
100 Federal Plaza
Central Islip, NY 11722

Honorable Gary R. Brown
United States District Court
100 Federal Plaza
Central Islip, NY 11722

Re: *Marino v. Brookhaven Science Associates, et al.*, 19-CV-4839 (“Marino”)
Yuhas v. Associated Universities, Inc., et al., 19-CV-5475 (“Yuhas”)
Faine, et al. v. Zep, Inc., et al., 19-CV-5729 (“Faine”)
McGowan v. Associated Universities, Inc., 20-CV-2246 (“McGowan”)
Torre v. v. Associated Universities, Inc., 20-CV-3066 (“Torre”)
Hobson, et al. v. Zep, Inc., 20-CV-3055 (“Hobson”)
Buckheit v. Associated Universities, Inc., 20-CV-3070 (“Buckheit”)
Formichelli v. Associated Universities, Inc., et al., 24-cv-04275 (“Formichelli”)

Dear Judges Brown and Bulsara:

We represent Defendant Illinois Tool Works Inc. (“ITW”) in *Formichelli v. Associated Universities, Inc., et al.*, 24-cv-04275 currently pending before Judge Bulsara. Pursuant to Local Civil Rule 1.6 and Rule 3 of the Guidelines for the Division of Business Among District Judges, ITW writes to inform the Court of the factual and legal overlap between the above-captioned cases. The first seven cases: (1) *Marino*; (2) *Yuhas*; (3) *Faine*; (4) *McGowan*; (5) *Torre*; (6) *Hobson*; and (7) *Buckheit* have already been deemed “related” (the “Related Cases”) and are each pending before Judge Brown. ITW requests that *Formichelli* also be considered a “related case” for the purposes of discovery.

Rule 3 of the Guidelines for the Division of Business Among District Judges states that cases can be considered “related” “because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning these cases to the same District Judge and/or Magistrate Judge.”

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Each of these eight cases stems from the same general set of facts and presents the same legal issues. Specifically, the cases arise from plaintiffs alleging harm caused by exposure to trichlorethylene (“TCE”) at Brookhaven National Laboratory (“BNL”). BNL was a research facility owned by the U.S. Department of Energy (“USDOE”) that was managed at different times by Associated Universities, Inc. (“AUI”) and Brookhaven Science Associates, L.L.C. (“BSA”). Each case alleges that the relevant plaintiff suffered an injury from exposure to TCE at BNL because of the actions of some combination of AUI, BSA, and manufacturers of products containing TCE, including Dow Chemical Co. (“Dow”), Zep, Inc. (“Zep”), and ITW. Each of the plaintiffs is represented by the same counsel in each of the eight cases.

Formichelli relates to the same site, the same chemical, the same timeframe, the same witnesses, and Mr. Formichelli is represented by the same counsel as the other Plaintiffs.

Allegations made in the Related Cases will impact the claims and defenses in *Formichelli*. For example, multiple plaintiffs in the Related Cases allege that the USDOE banned the use of TCE at its facilities, including BNL in 1990, but AUI concocted a plan to “stockpile” TCE containing products in order to circumvent USDOE’s regulations. *See e.g., Marino*, Compl., ¶¶ 133-36; *Faine* Compl., ¶¶ 68-70; *Yahas* Compl., ¶¶ 119-22. These cases allege that Dow and Zep’s products were included in this stockpile. *See e.g., Marino* Compl., ¶¶ 133-36. Between the alleged scheme and the possibility of exposure via other sources, ITW will need to understand the presence of each possible exposure to TCE at BNL during the relevant period.

Further, this request would decrease the amount of discovery required in *Formichelli*, conserve judicial resources, and, ultimately, push this dispute toward a resolution. In a recent filing in the Related Cases, plaintiffs’ counsel represented that there have been over 145,000 pages produced and eight defendants’ depositions taken in the Related Cases. *See Marino*, Dkt. No. 121, p. 2. Yet, ITW cannot access this discovery because of a protective order filed in the Related Cases. Conversely, the other parties to the case, Mr. Formichelli through his counsel and AUI, both have access to the complete discovery materials in the Related Cases. It is only ITW who has not seen this information. Rather than duplicate the same discovery already completed in the Related Cases, ITW requests that *Formichelli* be labeled a “related case” such that ITW can access the discovery completed in the Related Cases.

Finally, plaintiffs’ counsel in the Related Cases recently requested an extension of the existing case schedule. Finding *Formichelli* to be a related case would not otherwise prolong the resolution of the Related Cases. Moreover, ITW is not seeking to perform additional discovery in the Related Cases, but rather to obtain the already produced discovery.

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Although this request comes after the time suggested in Rule 3 of the Rules for the Division of Business for the Eastern District of New York, good cause exists. ITW was not named in any of the other Related Cases. Thus, ITW did not recognize the similarity between *Formichelli* and the Related Cases until deposing Mr. Formichelli in June 2025. ITW has now promptly moved to notify the Court.

In compliance with Rule 3 of the Rules for the Division of Business for the Eastern District of New York, ITW has conferred with counsel for all parties involved. ITW has requested consent from the other parties. Counsel for the plaintiffs provided consent to this request, while counsel for the remaining parties, including BNL, AUI, BSA, Zep, and Dow, have not responded.

In light of the nearly identical factual and legal issues posed by *Formichelli* and the Related Cases, ITW respectfully requests that the Court find *Formichelli* to be “related” to the Related Cases.

Respectfully submitted,

/s/ Gary J. Saalman

Gary J. Saalman

GJS

cc: Counsel of Record (By ECF)